

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

ANTWANDA VANDIVER,

Civil Action File No.

Plaintiff,

v.

WALMART, INC. AND SAM'S EAST, INC.,

Defendants.

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**NOTICE OF REMOVAL**

COME NOW WALMART, INC. and SAM'S EAST, INC., named Defendants in the above-captioned matter, by and through their counsel of record, within the time prescribed by law, and file this Notice of Removal, showing the Court as follows:

1.

The above-named Plaintiff filed suit against Defendants WALMART, INC. and SAM'S EAST, INC. in the State Court of Clayton County, Georgia, which is within the Atlanta Division of this Court. 28 U.S.C.A. § 90 (a)(2). Said lawsuit is styled as above and is numbered as Civil Action File No. 2021CV01018. Plaintiff's claims against Defendants include claims of negligence.

2.

Plaintiff filed the Complaint on or about April 30, 2021. Defendants

WALMART, INC. and SAM'S EAST, INC. received service of summons and a copy of the Complaint on May 4, 2021. Defendants WALMART, INC. and SAM'S EAST, INC. file this notice of Removal within thirty (30) days after service of summons and a copy of this Complaint.

3.

Defendant Walmart, Inc. is a Delaware corporation with its principal place of business in the State of Arkansas. Defendant Walmart, Inc. was not a citizen of the State of Georgia at the time of or immediately prior to the filing and service of said lawsuit, or at any time thereafter. The principal place of business for Walmart, Inc. is 708 SW 8th Street, Bentonville, AR 72716.

4.

Defendant Sam's East, Inc. is an Arkansas corporation with its principal place of business in the State of Arkansas, with its parent corporation being Walmart, Inc. Walmart Inc. is a Delaware corporation with its principal place of business in the State of Arkansas, and it was not a citizen of the State of Georgia at the time of or immediately prior to the filing and service of this lawsuit or at any time thereafter.

5.

Antwanda Vandiver is a citizen of the State of Georgia.

6.

Complete diversity of citizenship exists between Plaintiff and Defendants.

7.

Plaintiff claims L4-L5 disc bulge compression and L5-S1 disc herniation, injuries to her foot, ankle and back, including a sprain of left ankle, pain and suffering, past medical expenses in excess of \$45,832.75 and has made a \$1,000,000 settlement demand (Exhibit "A"), thereby meeting the jurisdictional requirement for federal subject matter jurisdiction. See Lowery v. Alabama Power Co., 483 F.3d 1184, 1262 n.62 (11th Cir. 2007) (quoting 28 U.S.C. § 1446(b)); Addo v. Globe Life & Accident Ins. Co., 230 F.3d 759, 761–62 (5th Cir.2000); Williams v. Safeco Ins. Co., 74 F.Supp.2d 925, 929 (W.D.Mo.1999); Southern Ins. Co. of Virginia v. Karrer, Civil Action No. 3:10–CV–84 (CAR), 2011 Westlaw 1100030 (M.D.Ga. Mar. 22, 2011); Golden Apple Management Co. v. Geac Computers, Inc., 990 F.Supp. 1364, 1368 (M.D.Ala. 1998); Jackson v. Select Portfolio Servicing, 651 F.Supp.2d 1279, 1281 (S.D.Ala. 2009); Barlow v. Variety Wholesalers, Civil Action No. 5:14-CV-375 (WLS) (M.D.Ga. Dec. 17, 2014); Devezin v. Wal-Mart Stores East, LP, Civil Action No. 1:134-CV-3721 (CAP) (N.D.Ga February 20, 2015); Peterman v. Wal-Mart Stores, Civil Action No. 1:13-cv-91 (WLS), 2013 Westlaw 5210188 (M.D.Ga. Sept. 13, 2013); Farley v. Variety Wholesalers, Civil Action No. 5:13-CV-52 (CAR), 2013 Westlaw 1748608

(M.D.Ga. April 23, 2013); Streicher v. Sam's East, Inc., Civil Action File No. CV419-01(WTM) (S.D. Ga March 4, 2019). The amount in controversy, exclusive of interest and costs, exceeds \$75,000.

8.

This action is removable pursuant to 28 U.S.C. §§ 1332, 1441, based on complete diversity of citizenship between Plaintiff and Defendants.

9.

Pursuant to the provisions of 28 U.S.C. § 1446, Defendants have attached as Exhibit "B" copies of all the pleadings that were provided to and served upon Defendant, including copies of all pleadings that have been filed to date in the State Court of Clayton County, Georgia for the above-styled case.

10.

Pursuant to 28 U.S.C. § 1446, Defendants are not required to file a removal bond.

11.

Written notice of the filing of this Notice of Removal will be given to all parties as required by 28 U.S.C. § 1446.

12.

A true and correct copy of this Notice of Removal will be filed with the Clerk

of the State Court of Clayton County, Georgia, as required by 28 U.S.C. § 1446.

WHEREFORE, Defendants WALMART, INC. and SAM'S EAST, INC. pray that the above-captioned lawsuit be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

McLAIN & MERRITT, P.C.

/s/ Howard M. Lessinger  
Howard M. Lessinger  
Georgia State Bar No. 447088

/s/ Jennie Rogers  
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The undersigned counsel certifies that the foregoing Notice of Removal has been prepared with one of the font and point selections approved by the court in LR 5.1B.

/s/ Howard M. Lessinger  
Howard M. Lessinger

**CERTIFICATE OF SERVICE**

This is to certify that on May 21, 2021, I electronically filed a **NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record.

McLAIN & MERRITT, P.C.

/s/ Howard M. Lessinger

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